

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN MCBREARTY;
CARL MCBREARTY; and
NINA MCBREARTY,

Plaintiffs

v.

DELAWARE COUNTY SHERIFFS
DEPARTMENT; NORWOOD
BOROUGH POLICE DEPARTMENT;
DELAWARE COUNTY; and
MEDIA BOROUGH,

Defendants

CIVIL ACTION NO. 02-4553

**SUR REPLY TO THE PLAINTIFFS' RESPONSE
TO THE MOTION TO DISMISS OF
DEFENDANT, NORWOOD BOROUGH POLICE DEPARTMENT**

The Norwood Borough Police Department (hereinafter referred to as Defendant Norwood), if even possibly assisting in the eviction of the Plaintiffs, John McBrearty and Carl McBrearty, was acting on the Temporary Protection from Abuse Order signed by Judge Ann Osborne on March 13, 2002. The Plaintiffs have failed to allege any facts to show that the conduct of Defendant Norwood would elevate to some type of legal cause of action. Simply put, Defendant Norwood was enforcing an Order that was entered by the Court of Common Pleas of Delaware County, Pennsylvania. The police officers involved in this matter do not have the option of questioning or overruling the Order dated March 13, 2002, decreed Judge Ann Osborne and are afforded "qualified immunity" as previously outlined in Defendant Norwood's Motion to Dismiss the Plaintiffs' Amended Complaint.

For the reasons stated herein and in Defendant Norwood's Motion to Dismiss the Plaintiffs' Amended Complaint, Defendant Norwood respectfully requests that this Honorable Court enter an Order dismissing the Norwood Borough Police Department, with prejudice, from this action.

Respectfully submitted,

MARGOLIS EDELSTEIN

By:_____

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Sur Reply to Plaintiffs' Response to the Motion to Dismiss of Defendant, Norwood Borough Police Department, has been served this _____ day of May, 2003, by first-class United States mail, postage pre-paid, addressed as follows:

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